# Exhibit 5 Part 37 To Third Declaration of Joseph N. Hosteny

elongate base portion (the region between the proximal end 16 and a point located distally of the proximal end 16) meets the elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14). The image sensor 42 is directed toward the distal end 14 to provide a view of the patient's anatomy.

- Claim 2 is fully anticipated under 35 U.S.C. § 102 by Berall because

  Berall, col. 1, 1l. 58-60; col. 5, 1l. 19-20, 28-31; Fig. 4, discloses a viewer

  (camera 26) located substantially near the area where the elongate base

  portion (the proximal end 24) meets the elongate lifter portion (the region
  located proximally of the tip 28 of the distal end 25). The camera 26 is

  directed toward the distal end 25 to provide a view of the patient's

  anatomy.
- (d) Claim 2 is obvious under 35 U.S.C. § 103(a) for the same reasons as those described above in connection with the obviousness of claim 1.

#### 3. Claim 3

Claim 3 reads:

3. The intubation instrument of claim 2, wherein said viewer is a telescope.

Claim 3 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of U.S. Pat. No. 5,443,058 ("Ough") because Ough, col. 6, ll. 10-11, discloses a laryngoscope where the viewer is a telescope. Accordingly, providing a telescope in the laryngoscope of GB 2086732 to view the patient's airway during the intubation process as shown in Ough would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

# 4. Claim 4

#### Claim 4 reads:

- 4. The intubation instrument of claim 2, wherein said viewer is a Complementary Metal Oxide Semiconductor camera.
- (a) Claim 4 is fully anticipated under 35 U.S.C. § 102 by Wood, Sr. et al. because Wood, Sr. et al., col. 3, ll. 53-57, discloses a video laryngoscope where the viewer (image sensor 42) may be a Complementary Metal Oxide Semiconductor ("CMOS") device.
- (b) Claim 4 is fully anticipated under 35 U.S.C. § 102 by Berall because Berall, col. 5, ll. 46-48, discloses that the viewer (camera 26) may be a CMOS device ("computer chip camera").
- (c) Claim 4 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall because providing a CMOS camera to acquire an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway. Accordingly, providing a CMOS camera in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 53-57) or Berall (col. 5, ll. 46-48) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 5. Claim 5

## Claim 5 reads:

- 5. The intubation instrument of claim 2, wherein said viewer is a Charged Coupled Device camera.
- (a) Claim 5 is fully anticipated under 35 U.S.C. § 102 by Wood, Sr. et al. because Wood, Sr. et al., col. 3, ll. 53-57, discloses a video laryngoscope

where the viewer (image sensor 42) may be a Charged Coupled Device ("CCD").

- (b) Claim 5 is fully anticipated under 35 U.S.C. § 102 by Berall because Berall, col. 5, 1l. 46-48, discloses that the viewer (camera 26) may be a CCD ("computer chip camera").
- Claim 5 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall because providing a CCD to acquire an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway. Accordingly, providing a CCD in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 53-57) or Berall (col. 5, ll. 46-48) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 6. Claim 6

## Claim 6 reads:

- 6. The intubation instrument of claim 2, further including a light operably secured to said lifter portion.
- (a) Claim 6 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732, p. 3, ll. 10-16; Figs. 7, 8, discloses a light (lamp 26) operably secured to the elongate lifter portion (the straight portion 28).
- (b) Claim 6 is fully anticipated under 35 U.S.C. § 102 by Wood, Sr. et al. because Wood, Sr. et al, col. 3, ll. 51-53; Fig. 3, discloses a light (fiber optic bundles 46 or conventional light source ("lamp")) operably secured to the elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14).

- Claim 6 is fully anticipated under 35 U.S.C. § 102 by Berall because Berall, col. 6, l. 16; col. 7, ll. 17-18, discloses means for illuminating the visual field, e.g., the trachea opening. Illuminating this area would require a light operably secured to that part of the laryngoscope body that is close to the trachea opening when the laryngoscope is in use, i.e., operably secured to the elongate lifter portion (the region located proximally of the tip 28 of the distal end 25).
- (d) Claim 6 is obvious under 35 U.S.C. § 103(a) for the same reasons as those described above in connection with the obviousness of claim 2.

Claim 7 reads:

7. The intubation instrument of claim 6, wherein said light is a Light Emitting Diode.

Claim 7 is obvious under 35 U.S.C. § 103(a) over GB 2086732 or Wood, Sr. et al. or Berall in view of U.S. Pat. No. 5,676,635 ("Levin") because Levin, col. 3, ll. 44-46; col. 5, ll. 6-12, discloses a system for intubation of a patient where the lifter portion (i.e., the distal end 24 of a formable shaft 20 which engages the epiglottis to allow insertion of an endotracheal tube) includes a Light Emitting Diode ("LED") operably secured thereto. Accordingly, providing an LED in the laryngoscopes of GB 2086732 or Wood, Sr. et al. or Berall to illuminate the patient's airway during intubation as shown in Levin would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 8. Claim 8

Claim 8 reads:

- 8. The intubation instrument of claim 2, further including a display for viewing video output from said viewer.
- (a) Claim 8 is fully anticipated under 35 U.S.C. § 102 by Wood, Sr. et al. because Wood, Sr. et al., col. 3, ll. 57-61, discloses a display ("video processing unit") for viewing video output from the viewer (image sensor 42).
- (b) Claim 8 is fully anticipated under 35 U.S.C. § 102 by Berall because Berall, col. 5, ll. 34-36; Fig. 4, discloses a display (television screen 34) for viewing video output from the viewer (camera 26).
- (c) Claim 8 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall or WO 91/04703 ("Kantor") because providing a display to view an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved observation of the airway. Accordingly, providing a display in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 57-61) or Berall (col. 5, ll. 34-36; Fig. 4) or Kantor (p. 7, ll. 6-15; p. 10, ll. 12-23) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

Claim 9 reads:

9. The intubation instrument of claim 8, wherein said display is remotely connected to said camera.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> No antecedent basis for "camera."

- (a) Claim 9 is fully anticipated under 35 U.S.C. § 102 by Wood, Sr. et al. because Wood, Sr. et al., col. 3, ll. 57-61, discloses a display ("video processing unit") for viewing video output from the viewer (image sensor 42) that is remotely connected ("external") to the viewer.
- (b) Claim 9 is fully anticipated under 35 U.S.C. § 102 by Berall because Berall, col. 3, ll. 13-21 discloses that remote connection to the viewer (camera 26) is known (but not optimal).
- (c) Claim 9 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall or Kantor because providing a display remotely connected to the viewer to view an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved observation of the airway. Accordingly, providing a display remotely connected to the viewer in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 57-61) or Berall (col. 3, ll. 13-21) or Kantor (p. 7, ll. 6-15; p. 10, ll. 12-23) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### Claim 10 reads:

- 10. The intubation instrument of claim 1, wherein said angle is between 5° and 85°, inclusive.
- (a) Claim 10 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate base portion (the straight portion 27) and elongate lifter portion (the straight portion 28) meet at an included angle of between 120° and 150° (p. 2, Il. 27-33), which

corresponds to an exterior angle (i.e., a supplementary angle, which is the angle referred to in the claim and described in the '447 patent at col. 7, ll. 60-62 and in Figs. 7 and 8) of between 30° and 60°, which is within the claimed range.

(b) Claim 10 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an angle of between 5° and 85°, inclusive, between the elongate base and lifter portions would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the claimed angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 11. Claim 11

#### Claim 11 reads:

- 11. The intubation instrument of claim 10, wherein said angle, is between 30° and 60°, inclusive.
- (a) Claim 10 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate base portion (the straight portion 27) and elongate lifter portion (the straight portion 28) meet at an included angle of between 120° and 150° (p. 2, ll. 27-33), which corresponds to an exterior angle (i.e., a supplementary angle, which is the angle referred to in the claim and described in the '447 patent at col. 7, ll. 60-62 and in Figs. 7 and 8) of between 30° and 60°.
- (b) Claim 11 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or

  Berall in view of GB 2086732 because providing an angle of between 30°

and 60°, inclusive, between the elongate base and lifter portions would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the claimed angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 12. Claim 12

#### Claim 12 reads:

- 12. The intubation instrument of claim 10, wherein said angle is ap[p]roximately 45°.
- (a) Claim 12 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate base portion (the straight portion 27) and elongate lifter portion (the straight portion 28) meet at an included angle of between 120° and 150°, and more appropriately at 135° (p. 2, 1l. 27-33), which corresponds to an exterior angle (i.e., a supplementary angle, which is the angle referred to in the claim and described in the '447 patent at col. 7, ll. 60-62 and in Figs. 7 and 8) of between 30° and 60°, and more appropriately at 45°, which includes claimed value.
- (b) Claim 12 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an angle of 45° between the elongate base and lifter portions would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the claimed angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time

the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 13. Claim 13

#### Claim 13 reads:

- 13. The intubation instrument of claim 1, wherein said elongate lifter portion is between 3-10 centimeters long, inclusive.
- (a) Claim 13 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate lifter portion (the straight portion 28) is comprised of a forming component 24B, which has a length of between 22 mm (2.2 cm) and 90 mm (9 cm), depending on the size and age of the patient (i.e., adult or infant) (p. 3, ll. 10-16; p. 4, ll. 3-6). Since the suitability of the length of the elongate lifter portion depends on the size and age of the patient, the particular length recited in this claim is not critical. The claimed range encompasses these values.
- (b) Claim 13 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion that is between 3-10 centimeters long, inclusive, would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the length in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 3, ll. 10-16; p. 4, ll. 3-6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 14. Claim 14

#### Claim 14 reads:

- 14. The intubation instrument of claim 13, wherein said elongate lifter portion is between 4-8 centimeters long, inclusive.
- (a) Claim 14 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate lifter portion (the straight portion 28) is comprised of a forming component 24B, which has a length of between 22 mm (2.2 cm) and 90 mm (9 cm), depending on the size and age of the patient (i.e., adult or infant) (p. 3, ll. 10-16; p. 4, ll. 3-6). Since the suitability of the length of the elongate lifter portion depends on the size and age of the patient, the particular length recited in this claim is not critical. The claimed range encompasses these values.
- (b) Claim 14 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion that is between 4-8 centimeters long, inclusive, would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the length in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 3, 1l. 10-16; p. 4, 1l. 3-6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

# 15. Claim 15

## Claim 15 reads:

- 15. The intubation instrument of claim 14, wherein said elongate lifter portion is approximately 6 centimeters long.
- (a) Claim 15 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate lifter portion (the straight

portion 28) is comprised of a forming component 24B, which has a length of between which has a length of between 22 mm (2.2 cm) and 90 mm (9 cm), and preferably 60 mm (6 cm) or 27 mm (2.7 cm), depending on the size and age of the patient (i.e., adult or infant) (p. 3, ll. 10-16; p. 4, ll. 3-6). Since the suitability of the length of the elongate lifter portion depends on the size and age of the patient, the particular length recited in this claim is not critical. The claimed value is disclosed.

(b) Claim 15 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion that is approximately 6 centimeters long would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the length in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 3, ll. 10-16; p. 4, ll. 3-6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 16. Claim 16

#### Claim 16 reads:

- 16. The intubation instrument of claim 1, wherein said first defined length and said second defined length are substantially the same length.
- (a) Claim 16 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732 discloses that the elongate base portion (the straight portion 27) is comprised of a forming component 24A, which has a length of between 40 mm and 120 mm, and preferably between 60 mm and 85 mm (p. 3, ll. 10-16; p. 3, l. 129 p. 4, l. 2). The elongate lifter portion (the straight portion 28) is comprised of a forming component 24B, which

has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-6). Accordingly, at 60 mm, for example, the elongate lifter portion (the straight portion 28) and the elongate base portion (the straight portion 27) are substantially the same length.

(b) Claim 16 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate base portion and an elongate lifter portion that are substantially the same length would improve the shape of the laryngoscope and facilitate the intubation process. Accordingly, providing the length in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 3, ll. 10-16; p. 3, l. 129 – p. 4, l. 6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 17. Claim 17

Claim 17 reads:

17. The intubation instrument of claim 1, wherein said lifter portion is pivotally secured to said base portion at a pivot point.

Claim 17 is obvious under 35 U.S.C. § 103(a) over GB 2086732 or Wood, Sr. et al. or Berall in view of U.S. Pat. No. 4,573,451 ("Bauman") or WO 98/19589 ("Mentzelopoulous")<sup>2</sup>. Bauman, col. 3, ll. 13-24, 54-57; Figs. 5, 6, discloses a

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<sup>&</sup>lt;sup>2</sup> The publication date of the Mentzelopoulous reference is May 14, 1998, and it is prior art to the '447 patent in view of (i) the failure of the'447 patent to maintain its purported priority chain, and (ii) the '447 applicant not disclosing the feature of pivotal attachment until the December 6, 2000, filing of the application (09/732,139) that led to the '447 patent. (With respect to the failure of the '447 patent to maintain its priority chain, the '447 patent claims priority to the earlier filed 09/704,507 application, which is not entitled to the benefit of the earlier filed 09/060,891 application (now U.S. Pat. No. 6,142,144) at least because the specification of the 09/704,507 application was not amended to contain a specific reference to the 09/060,891 application as required by 35 U.S.C. § 120. Further, the earlier provisional applications 60/067,205 and 60/074,355 were not pending at the time the 09/704,507 application was filed. See, e.g., 09/704,507 file history.)

laryngoscope having a lifter portion (flexible tip 35) pivotally secured to the base portion (12) of the laryngoscope blade at a pivot point (near blade section 42). Mentzelopoulous, p. 13, ll. 16-17; p. 16, ll. 16-19; p. 18, l. 26 – p. 19, l. 1; p. 21, ll. 19-23; Figs. I-III, discloses a laryngoscope having a lifter portion ("distal two thirds") pivotally secured to the base portion (length "L/3") at a pivot point (joint 1 (Figs. II and III); joint 6 (Fig. II); joint 12 (Fig. I)). Accordingly, providing a lifter portion pivotally secured to the base portion in the laryngoscopes of GB 2086732 or Wood, Sr. et al. or Berall to increase flexibility of the laryngoscope and facilitate the intubation process as shown in Bauman (col. 3, ll. 13-24, 54-57; Figs. 5, 6) or Mentzelopoulous (p. 13, ll. 16-17; p. 16, ll. 16-19; p. 18, l. 26 – p. 19, l. 1; p. 21, ll. 19-23; Figs. I-III) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 18. Claim 18

Claim 18 reads:

18. The intubation instrument of claim 17, further including a locking mechanism for actuating and holding said lifter portion in a predetermined position about said pivot point.

Claim 18 is obvious under 35 U.S.C. § 103(a) over GB 2086732 or Wood, Sr. et al. or Berall in view of Bauman or Mentzelopoulous (prior art as described above in connection with claim 17). Bauman, col. 3, ll. 24-54; Figs. 5, 6 discloses a laryngoscope having a locking mechanism (push rod 33; serrated surfaces 37, 40) for actuating and holding the lifter portion (flexible tip 35) in a predetermined position about the pivot point (near blade section 42). Mentzelopoulous, p. 15, l. 18; p. 21, ll. 19-23; p. 25, ll. 11-13; Figs. I-III, discloses a laryngoscope having a locking mechanism (control lever (13 (Fig. I); 2 (Fig. II)) in cooperation with a system of four springs (12, 13, 5c', 5d' (Fig. II)) for actuating and holding the lifter portion ("distal two thirds") in a predetermined position about the pivot

point (joint 1 (Figs. II and III); joint 6 (Fig. II); joint 12 (Fig. I)). Accordingly, providing a locking mechanism in the laryngoscopes of GB 2086732 or Wood, Sr. et al. or Berall to secure the pivoting of a laryngoscope having increased flexibility (due to the pivot capability) and facilitate the intubation process as shown in Bauman (col. 3, ll. 24-54; Figs. 5, 6) or Mentzelopoulous (p. 15, l. 18; p. 21, ll. 19-23; p. 25, ll. 11-13; Figs. I-III) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 19. Claim 19

(a) Claim 19 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 as described in the following claim chart:

Claim 19	GB 2086732	US 5,800,344	US 5,827,178
19. An intubation	GB 2086732, p. 1, ll. 5-	US 5,800,344, col. 1,	US 5,827,178, col. 1,
instrument, a	27, discloses a	ll. 1-21 discloses a	ll. 5-10; col. 4, ll. 8-12
portion of which is	laryngoscope that is	laryngoscope that is	discloses a
for insertion into a	used in intubation	used in intubation	laryngoscope that is
pat[i]ent through	procedures. A portion	procedures. A	used in intubation
the patient's mouth,	of the laryngoscope is	portion of the	procedures. A portion
comprising:	inserted through the	laryngoscope is	of the laryngoscope is
	patient's mouth as	inserted through the	inserted through the
	shown in Figs. 9 and	patient's mouth.	patient's mouth.
	17.		
a body having a	GB 2086732, Fig. 15	US 5,800,344, col. 2,	US 5,827,178, col. 5,
handle attached	discloses a	11. 47-54 and Figs. 1	11. 13-15; Fig. 2
thereto;	laryngoscope body. A	and 4 discloses a	discloses a
	handle 43 is attached to	laryngoscope body	laryngoscope body and
	the body and is shown	and a handle 20	a handle 21 attached to
	more clearly in Fig. 10.	attached to the body.	the body.
	The handle 43 may be		
	integral or releasably		
	attached to the		
	remainder of the		
	laryngoscope body (p.		
	3, 11. 100-104).		

Claim 19	GB 2086732	US 5,800,344	US 5,827,178
an elongate arm	GB 2086732, Figs. 7,	US 5,800,344, col. 2,	US 5,827,178, col. 1,
having an elongate	8, and 17 discloses an	11. 47-54 and Figs. 1	ll. 5-10; col. 4, ll. 8-
base portion	elongate arm (the	and 4 discloses an	12; col. 5, ll. 5-13, 21-
attached to the body	laryngoscope blade 21).	elongate arm (the	24; Fig. 4 discloses an
and an elongate	The laryngoscope blade	body 12, known	elongate arm (the
lifter portion having	21 has an elongate base	conventionally as a	laryngoscope blade
a smooth surface	portion (the straight	"blade"). The blade	17). The laryngoscope
for engaging the	portion 27) and an	has an elongate base	blade 17 has an
patient's epiglottis,	elongate lifter portion	portion (the region	elongate base portion
said elongate lifter	(the straight portion	between the proximal	(the proximal end 24)
portion having a	28). The elongate base	end 16 and a point	that is attached to the
distal end for	portion (the straight	located distally of the	remainder of the
insertion distal-end	portion 27) is attached	proximal end 16) that	laryngoscope body.
first through a	to the remainder of the	is attached to the	The laryngoscope
patient's mouth;	laryngoscope body	remainder of the	blade 17 has an
	using, for example, the	laryngoscope body	elongate lifter portion
	notch 46 and clip 50 at	(col. 1, ll. 52-53; col.	(the region located
	the lower depending	2, 11. 64-67; Fig. 2).	proximally of the tip
	portion 49 of the lower	The blade has an	28 of the distal end 25)
	part 47 (p. 3, 1l. 14-16;	elongate lifter portion	with a distal end (25)
	p. 3, 11. 94-106; Figs. 7,	(the region between	that is inserted, distal-
	8, and 10). The	the distal end 14 and	end first, into the
	elongate lifter portion	a point located	patient's mouth during
	(the straight portion 28)	proximally of the	intubation, which
	has a distal end (tip 22)	distal end 14) (col. 2,	involves engaging
	that is inserted distal-	11. 47-54 and Fig. 1).	("manipulation of")
	end first through a	The elongate lifter	the patient's epiglottis.
	patient's mouth and, as	portion (the region	
	part of the	between the distal	
	laryngoscope blade 21,	end 14 and a point	
	engages the patient's	located proximally of	
	epiglottis to expose the	the distal end 14) has	
	patient's larynx (p. 1,	a smooth surface	
	11. 57-64).	(smooth tip 18) and a distal end 14 and is	
	GB 2086732, Fig. 8	inserted, distal-end	
	shows that the elongate	first, into the patient's	
	lifter portion (the	mouth and through a	
	straight portion 28) has	patient's pharynx,	
	a smooth surface.	larynx, and trachea to	
	Further, since the	open the patient's	
	elongate lifter portion	airway passage (col.	
	28 of the laryngoscope	1, ll. 10-21, 50-52;	
	blade 21 is inserted	col. 2, 11. 49-51).	
	between the tongue and	Accordingly, the	

Claim 19	GB 2086732	US 5,800,344	US 5,827,178
Claim 19	tonsil (p. 3, 1l. 86-88), it needs to have a smooth surface to avoid injuring the sensitive tissue comprising the patient's airway.  Accordingly, the smooth portion of the elongate lifter portion (the straight portion 28 shown in Fig. 8) is at least inherently disclosed.  Note that GB 2086732, Figs. 9 and 17 show the tip 22 of the elongate lifter portion (the straight portion 28)	elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14) opens the airway by engaging the epiglottis of the patient.	US 5,827,178
	partially obstructed by the patient's epiglottis, denoted with diagonal marking in the excerpt shown in the analysis of claim 1, above.		
said elongate lifter portion being at least 3 centimeters long and extending from said elongate base portion by at least a 5 degree angle;	GB 2086732, p. 2, ll. 27-33 and Fig. 8 discloses that the laryngoscope blade 21 has an elongate lifter portion (the straight portion 28) that extends from the elongate base portion (the straight portion 27). The elongate lifter portion (the straight portion 28) is comprised of a forming component 24B, which has a length of between 22 mm (2.2 cm) and 90 mm (9 cm), and preferably 60 mm (6 cm) or 27 mm (2.7 cm),	(see below with respect to 35 U.S.C. § 103(a))	(see below with respect to 35 U.S.C. § 103(a))

Claim 19	GB 2086732	US 5,800,344	US 5,827,178
a viewer positioned substantially near the area where said elongate base portion meets said elongate lifter portion of said elongate arm, said viewer directed toward the distal end of said elongate lifter portion; and,	depending on the size and age of the patient (i.e., adult or infant) (p. 3, ll. 10-16; p. 4, ll. 3-6). The straight portions 27 and 28 meet at an included angle of between 120° and 150° (p. 2, ll. 27-33), which corresponds to an exterior angle (i.e., a supplementary angle, which is the angle referred to in the claim and described in the '447 patent at col. 7, ll. 60-62 and in Figs. 7 and 8) of between 30° and 60°.  GB 2086732, p.3, ll. 35-53 and Fig. 9 discloses a viewer (prism 10) positioned substantially near the area where the elongate base portion (the straight portion 27) meets the elongate lifter portion (the straight portion 28). The prism is directed toward the distal end of the straight portion 28 to provide a view of the patient's anatomy.	US 5,800,344, col. 1, ll. 60-62; col. 3, ll. 22-37; Fig. 3 discloses a viewer (image sensor 42) positioned substantially near the area where elongate base portion (the region between the proximal end 16 and a point located distally of the proximal end 16) meets the elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14 and a point located proximally of the distal end 14). The image sensor 42 is directed toward the distal end 14 to provide a view of the patient's anatomy.	US 5,827,178, col. 1, ll. 58-60; col. 5, ll. 19-20, 28-31; Fig. 4 discloses a viewer (camera 26) located substantially near the area where the elongate base portion (the proximal end 24) meets the elongate lifter portion (the region located proximally of the tip 28 of the distal end 25). The camera 26 is directed toward the distal end 25 to provide a view of the patient's anatomy.

Claim 19	GB 2086732	US 5,800,344	US 5,827,178
a light operably	GB 2086732, p. 3, ll.	US 5,800,344, col. 3,	US 5,827,178, col. 6, 1.
secured to said	10-16 and Figs. 7 and 8	11. 51-53; Fig. 3	16; col. 7, ll. 17-18
elongate lifter	discloses a light (lamp	discloses a light	discloses means for
portion.	26) operably secured to	(fiber optic bundles	illuminating the visual
	the elongate lifter	46 or conventional	field, e.g., the trachea
	portion (the straight	light source ("lamp"))	opening. Illuminating
	portion 28).	operably secured to	this area would require
		the elongate lifter	a light operably
		portion (the region	secured to that part of
		between the distal	the laryngoscope body
] }		end 14 and a point	that is close to the
		located proximally of	trachea opening when
		the distal end 14).	the laryngoscope is in
			use, i.e., operably
			secured to the elongate
			lifter portion (the
			region located
			proximally of the tip
			28 of the distal end
			25).

(b) Claim 19 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion being at least 3 centimeters long and extending from the elongate base portion by at least a 5 degree angle would improve the shape of the laryngoscope and facilitate the intubation process. (The remaining features of claim 19 are disclosed in Wood, Sr. et al. and Berall as shown in the preceding claim chart.) Accordingly, providing the length and angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33; p. 3, ll. 10-16; p. 4, ll. 3-6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 20. Claim 20

#### Claim 20 reads:

- 20. The intubation instrument of claims [sic] 19, wherein said light is a Light Emitting Diode.
- (a) Claim 20 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Levin because Levin, col. 3, ll. 44-46; col. 5, ll. 6-12, discloses a system for intubation of a patient where the lifter portion (i.e., the distal end 24 of a formable shaft 20 which engages the epiglottis to allow insertion of an endotracheal tube) includes a Light Emitting Diode ("LED") operably secured thereto. Accordingly, providing an LED in the laryngoscope of GB 2086732 to illuminate the patient's airway during intubation as shown in Levin (col. 3, ll. 44-46; col. 5, ll. 6-12) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.
- (b) Claim 20 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 as to length and angle as described above in connection with claim 19, in further view of Levin as to the LED. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 21. Claim 21

## Claim 21 reads:

21. The intubation instrument of claim 19, wherein said viewer is Complementary Metal Oxide Semiconductor camera and said light is a Light Emitting Diode operably secured to said elongate lifter portion.

- (a) Claim 21 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall, in further view of Levin because providing a CMOS camera to acquire an image of the patient's airway and an LED to illuminate the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway.

  Accordingly, providing a CMOS camera and an LED in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 53-57) or Berall (col. 5, ll. 46-48) and Levin (col. 3, ll. 44-46; col. 5, ll. 6-12) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.
- (b) Claim 21 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 as to length and angle (as described above in connection with claim 19) and a CMOS camera as described in the preceding paragraph, in further view of Levin as to the LED. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(a) Claim 22 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Bauman or Mentzelopoulous as described in the following claim chart:

Claim 22	GB 2086732	US 5,800,344	US 5,827,178
22. An intubation	GB 2086732, p. 1, ll.	US 5,800,344, col. 1,	US 5,827,178, col. 1,
instrument, a	5-27, discloses a	ll. 1-21 discloses a	ll. 5-10; col. 4, ll. 8-12
portion of which is	laryngoscope that is	laryngoscope that is	disclose a
for insertion into a	used in intubation	used in intubation	laryngoscope that is
patient through the	procedures. A portion	procedures. A portion	used in intubation
patient's mouth,	of the laryngoscope is	of the laryngoscope is	procedures. A portion
comprising:	inserted through the	inserted through the	of the laryngoscope is
	patient's mouth as	patient's mouth.	inserted through the

Claim 22	GB 2086732	US 5,800,344	US 5,827,178
	shown in Figs. 9 and 17.		patient's mouth.
a body having a handle attached thereto;	GB 2086732, Fig. 15 discloses a laryngoscope body. A handle 43 is attached to the body and is shown more clearly in Fig. 10. The handle 43 may be integral or releasably attached to the remainder of the laryngoscope body (p. 3, 1l. 100-104).	US 5,800,344, col. 2, ll. 47-54 and Figs. 1 and 4 disclose a laryngoscope body and a handle 20 attached to the body.	US 5,827,178, col. 5, ll. 13-15; Fig. 2 disclose a laryngoscope body and a handle 21 attached to the body.
an elongate arm having an elongate base portion attached to the body and an elongate lifter portion having a smooth surface for engaging the patient's epiglottis, said elongate lifter portion having a distal end for insertion distal-end first through a patient's mouth and pivotally secured to said elongate base portion at a pivot point;	GB 2086732, Figs. 7, 8, and 17 disclose an elongate arm (the laryngoscope blade 21). The laryngoscope blade 21 has an elongate base portion (the straight portion 27) and an elongate lifter portion (the straight portion 28). The elongate base portion (the straight portion 27) is attached to the remainder of the laryngoscope body using, for example, the notch 46 and clip 50 at the lower depending portion 49 of the lower part 47 (p. 3, ll. 14-16; p. 3, ll. 94-106; Figs. 7, 8, and 10). The elongate lifter portion (the straight portion 28) has a distal end (tip 22) that is inserted distal-end first through a patient's mouth and, as part of the laryngoscope blade 21,	US 5,800,344, col. 2, ll. 47-54 and Figs. 1 and 4 disclose an elongate arm (the body 12, known conventionally as a "blade"). The blade has an elongate base portion (the region between the proximal end 16 and a point located distally of the proximal end 16) that is attached to the remainder of the laryngoscope body (col. 1, ll. 52-53; col. 2, ll. 64-67; Fig. 2). The blade has an elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14) (col. 2, ll. 47-54 and Fig. 1). The elongate lifter portion (the region between the distal end 14 and a point located proximally of the	US 5,827,178, col. 1, ll. 5-10; col. 4, ll. 8-12; col. 5, ll. 5-13, 21-24; Fig. 4 disclose an elongate arm (the laryngoscope blade 17). The laryngoscope blade 17 has an elongate base portion (the proximal end 24) that is attached to the remainder of the laryngoscope body. The laryngoscope blade 17 has an elongate lifter portion (the region located proximally of the tip 28 of the distal end (25) with a distal end (25) that is inserted, distalend first, into the patient's mouth during intubation, which involves engaging ("manipulation of") the patient's epiglottis.  (See below with respect to 35 U.S.C. § 103(a))

Claim 22	GB 2086732	US 5,800,344	US 5,827,178
	engages the patient's	distal end 14) has a	
	epiglottis to expose the	smooth surface	
	patient's larynx (p. 1,	(smooth tip 18) and is	
	11. 57-64).	inserted into the	
		patient's mouth and	
	GB 2086732, Fig. 8	through a patient's	
	shows that the	pharynx, larynx, and	
	elongate lifter portion	trachea to open the	
	(the straight portion	patient's airway	
	28) has a smooth	passage (col. 1, ll. 10-	
	surface. Further, since	21, 50-52; col. 2, 11.	
	the elongate lifter	49-51). Accordingly,	
	portion 28 of the	the elongate lifter	
	laryngoscope blade 21	portion (the region	
	is inserted between the	between the distal end	·
	tongue and tonsil (p. 3,	14 and a point located	
	11. 86-88), it needs to	proximally of the	
	have a smooth surface	distal end 14) opens	
	to avoid injuring the	the airway by	
	sensitive tissue	engaging the epiglottis	
	comprising the	of the patient.	
	patient's airway.		
	Accordingly, the	(See below with	
	smooth portion of the	respect to 35 U.S.C. §	
	elongate lifter portion	103(a))	
	(the straight portion 28		
	shown in Fig. 8) is at		
	least inherently		
	disclosed.	,	
	NI-4- 4b-4 CD		
	Note that GB		
	2086732, Figs. 9 and		
	17 show the tip 22 of		
	the elongate lifter portion (the straight		
	, , ,		
	portion 28) partially obstructed by the		
	patient's epiglottis,		
	denoted with diagonal		
	marking in the excerpt		
	shown in the analysis		
	of claim 1, above.		
	01 0141111 1, 400 40.		
	(See below with		
	respect to 35 U.S.C. §		

Claim 22	GB 2086732	US 5,800,344	US 5,827,178
	103(a))		
said elongate lifter	GB 2086732, p. 2, 11.	(See below with	(See below with
portion being at	27-31 and Fig. 8	respect to 35 U.S.C. §	respect to 35 U.S.C. §
least 3 centimeters	disclose that the	103(a))	103(a))
long and extending	laryngoscope blade 21		
from said elongate	has an elongate lifter		
base portion by at	portion (the straight		
least a 5 degree	portion 28) that		
angle.	extends from the		
	elongate base portion		
	(the straight portion		
	27). The elongate		
	lifter portion (the		
	straight portion 28) is		
	comprised of a		
	forming component		
	24B, which has a		
	length of between 22		
	mm (2.2 cm) and 90		
	mm (9 cm), and		
	preferably 60 mm (6		
	cm) or 27 mm (2.7		
	cm), depending on the		
	size and age of the		
	patient (i.e., adult or		
	infant) (p. 3, ll. 10-16;		
	p. 4, 11. 3-6). The		
	straight portions 27		
	and 28 meet at an		
	included angle of		
	between 120° and 150°		
	(p. 2, 11. 27-33), which		
	corresponds to an		
	exterior angle (i.e., a		
	supplementary angle, which is the angle		
	referred to in the claim		
	and described in the		
	'447 patent at col. 7, ll.		
	60-62 and in Figs. 7		
	and 8) of between 30°		
	and 60°.		
	allu 00 .		

Claim 22 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Bauman or Mentzelopoulous (prior art as described above in connection with claim 17). Bauman, col. 3, 1l. 13-24, 54-57; Figs. 5, 6, discloses a laryngoscope having a lifter portion (flexible tip 35) pivotally secured to the base portion (12) of the laryngoscope blade at a pivot point (near blade section 42). Mentzelopoulous, p. 13, ll. 16-17; p. 16, ll. 16-19; p. 18, l. 26 - p. 19, l. 1; p. 21, ll. 19-23; Figs. I-III, discloses a laryngoscope having a lifter portion ("distal two thirds") pivotally secured to the base portion (length "L/3") at a pivot point (joint 1 (Figs. II and III); joint 6 (Fig. II); joint 12 (Fig. I)). (The remaining features of claim 22 are disclosed in GB 2086732 as shown in the preceding claim chart.) Accordingly, providing a pivot point in the laryngoscope of GB 2086732 to increase flexibility of the laryngoscope and facilitate the intubation process as shown in Bauman (col. 3, Il. 13-24, 54-57; Figs. 5, 6) or Mentzelopoulous (p. 13, Il. 16-17; p. 16, ll. 16-19; p. 18, l. 26 – p. 19, l. 1; p. 21, ll. 19-23; Figs. I-III) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(b) Claim 22 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732, in further view of Bauman or Mentzelopoulous because providing an elongate lifter portion being at least 3 centimeters long and extending from the elongate base portion by at least a 5 degree angle would improve the shape of the laryngoscope and facilitate the intubation process. (With the exception of the pivot, the remaining features of claim 22 are disclosed in Wood, Sr. et al. and Berall as shown in the preceding claim chart.) Accordingly, providing the length and angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33; p. 3, ll. 10-16; p. 4, ll. 3-6), with the pivot feature shown in Bauman (col. 3, ll. 13-24, 54-57; Figs. 5, 6) or

Mentzelopoulous (p. 13, ll. 16-17; p. 16, ll. 16-19; p. 18, l. 26 – p. 19, l. 1; p. 21, ll. 19-23; Figs. I-III) to increase flexibility of the laryngoscopes, would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 23. Claim 23

Claim 23 reads:

- 23. The intubation instrument of claim 22, further including a locking mechanism for actuating and holding said elongate lifter portion in a predetermined position about said pivot point.
- (a) Claim 23 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Bauman or Mentzelopoulous (prior art as described above in connection with claim 17). Bauman, col. 3, 1l. 24-54; Figs. 5, 6 discloses a laryngoscope having a locking mechanism (push rod 33; serrated surfaces 37, 40) for actuating and holding the lifter portion (flexible tip 35) in a predetermined position about the pivot point (near blade section 42). Mentzelopoulous, p. 15, l. 18; p. 21, ll. 19-23; p. 25, ll. 11-13; Figs. I-III, discloses a laryngoscope having a locking mechanism (control lever (13 (Fig. I); 2 (Fig. II)) in cooperation with a system of four springs (12, 13, 5c', 5d' (Fig. II)) for actuating and holding the lifter portion ("distal two thirds") in a predetermined position about the pivot point (joint 1 (Figs. II and III); joint 6 (Fig. II); joint 12 (Fig. I)). Accordingly, providing a locking mechanism in the laryngoscope of GB 2086732 to secure the pivoting of a laryngoscope having increased flexibility (due to the pivot capability) and facilitate the intubation process as shown in Bauman (col. 3, ll. 24-54; Figs. 5, 6) or Mentzelopoulous (p. 15, l. 18; p. 21, ll. 19-23; p. 25, Il. 11-13; Figs. I-III) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged

invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(b) Claim 23 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732, in further view of Bauman or Mentzelopoulous as to the locking mechanism and, as described above in connection with claim 22, the pivot, length, and angle. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 24. Claim 24

#### Claim 24 reads:

- 24. The intubation instrument of claim 22, further including a viewer operably secured to said intubation instrument, and a display for viewing output from said viewer.
- (a) Claim 24 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Bauman or Mentzelopoulous (prior art as described above in connection with claim 17), in further view of Wood, Sr. et al. or Berall or Kantor, because providing a viewer and a display to view an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved observation of the airway. Accordingly, providing a viewer and a display in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 1, ll. 60-62; col. 3, ll. 22-61; Fig. 3) or Berall (col. 1, ll. 58-60; col. 5, ll. 19-20, 28-31, 34-36; Fig. 4) or Kantor (p. 7, ll. 6-15; p. 10, ll. 12-23), with the pivot feature shown in Bauman (col. 3, ll. 24-54; Figs. 5, 6) or Mentzelopoulous (p. 15, l. 18; p. 21, ll. 19-23; p. 25, ll. 11-13; Figs. I-III) to increase flexibility of the laryngoscope, would have been obvious to a person having ordinary skill in the art of

laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(b) Claim 24 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732, in further view of Bauman or Mentzelopoulous as to the length, angle, and pivot feature (as described above in connection with claim 22) and the viewer and display as described in the preceding paragraph. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

#### 25. Claim 25

#### Claim 25 reads:

- 25. The intubation instrument of claim 24, wherein said viewer is a camera and said display is remotely connected to said camera.
- Claim 25 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Bauman or Mentzelopoulous, in further view of Wood, Sr. et al. or Berall or Kantor, because providing a display remotely connected to the viewer to view an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved observation of the airway. Accordingly, providing a display remotely connected to the viewer in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 57-61) or Berall (col. 3, ll. 13-21) or Kantor (p. 7, ll. 6-15; p. 10, ll. 12-23), with the pivot feature shown in Bauman (col. 3, ll. 24-54; Figs. 5, 6) or Mentzelopoulous (p. 15, l. 18; p. 21, ll. 19-23; p. 25, ll. 11-13; Figs. I-III) to increase flexibility of the laryngoscope, would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent

- was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.
- (b) Claim 25 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732, in further view of Bauman or Mentzelopoulous as described in the preceding paragraph as to a display that is remotely connected to a camera, and for the same reasons as those described above in connection with the obviousness of claim 24. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

# 26. Claim 26<sup>3</sup>

(a) Claim 26 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 as described in the following claim chart:

Claim 26	GB 2086732	US 5,800,344	US 5,827,178
26. An intubation	GB 2086732, p. 1, ll.	US 5,800,344, col. 1,	US 5,827,178, col. 1,
instrument, a	5-27, discloses a	ll. 1-21 discloses a	ll. 5-10; col. 4, ll. 8-12
portion of which is	laryngoscope that is	laryngoscope that is	disclose a
for insertion into a	used in intubation	used in intubation	laryngoscope that is
patient through the	procedures. A portion	procedures. A portion	used in intubation
patient's mouth,	of the laryngoscope is	of the laryngoscope is	procedures. A portion
comprising:	inserted through the	inserted through the	of the laryngoscope is
	patient's mouth as	patient's mouth.	inserted through the
	shown in Figs. 9 and		patient's mouth.
	17.		
a body having a	GB 2086732, Fig. 15	US 5,800,344, col. 2,	US 5,827,178, col. 5,
handle attached	discloses a	11. 47-54 and Figs. 1	ll. 13-15; Fig. 2
thereto;	laryngoscope body. A	and 4 disclose a	disclose a
	handle 43 is attached	laryngoscope body and	laryngoscope body and
	to the body and is	a handle 20 attached to	a handle 21 attached to
	shown more clearly in	the body.	the body.
	Fig. 10. The handle 43		
	may be integral or		
	releasably attached to		

<sup>&</sup>lt;sup>3</sup> The feature of the elongate lifter portion being at least as long as the elongate base portion is not disclosed in the earlier applications 09/060,891; 60/074,355; and 60/067,205 all to which the '447 patent improperly claims priority.

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Claim 26	GB 2086732	US 5,800,344	US 5,827,178
	the remainder of the		
	laryngoscope body (p.		
	3, ll. 100-104).		
an elongate arm	GB 2086732, Figs. 7,	US 5,800,344, col. 2,	US 5,827,178, col. 1,
having an elongate	8, and 17 disclose an	ll. 47-54 and Figs. 1	11. 5-10; col. 4, 11. 8-12;
base portion	elongate arm (the	and 4 disclose an	col. 5, ll. 5-24; Fig. 4
operably secured to	laryngoscope blade	elongate arm (the body	disclose an elongate
said body at one	21). The laryngoscope	12, known	arm (the laryngoscope
end and an	blade 21 has an	conventionally as a	blade 17). The
elongate lifter	elongate base portion	"blade"). The blade	laryngoscope blade 17
portion extending	(the straight portion	has an elongate base	has an elongate base
from said elongate	27) that is operably	portion (the region	portion (the proximal
base portion	secured to the	between the proximal	end 24) that is
toward an opposite	remainder of the	end 16 and a point	operably secured to the
end of said	laryngoscope body	located distally of the	remainder of the
elongate base	using, for example, the	proximal end 16) that	laryngoscope body.
portion, said elongate lifter	notch 46 and clip 50 at the lower depending	is operably secured to the remainder of the	The laryngoscope blade 17 has an
portion having a	portion 49 of the lower	laryngoscope body	elongate lifter portion
smooth surface for	part 47 (p. 3, 11. 14-16;	(col. 1, ll. 52-53; col.	(the region located
engaging the	p. 3, 11. 94-106; Figs.	2, 11. 64-67; Fig. 2).	proximally of the tip
patient's epiglottis	7, 8, and 10). The	The blade has an	28 of the distal end 25)
and a distal end for	laryngoscope blade 21	elongate lifter portion	that extends from the
insertion distal-end	has an elongate lifter	(the region between	elongate base portion
first through a	portion (the straight	the distal end 14 and a	(the proximal end 24)
patient's mouth;	portion 28) that	point located	toward an opposite end
<b>P</b> ,	extends from the	proximally of the	of the elongate base
	elongate base portion	distal end 14) that	portion and has a distal
	(the straight portion	extends from the	end (25) that is
	27) toward an opposite	elongate base portion	inserted, distal-end
	end of the elongate	toward an opposite end	first, into the patient's
	base portion (p. 2, ll.	of the elongate base	mouth during
	27-31 and Fig. 8). The	portion (col. 2, 11. 47-	intubation, which
	elongate lifter portion	54 and Fig. 1). The	involves engaging
	(the straight portion	elongate lifter portion	("manipulation of")
	28) has a distal end	(the region between	the patient's epiglottis.
	(tip 22) that is inserted	the distal end 14 and a	
	distal-end first through	point located	
	a patient's mouth and,	proximally of the	
	as part of the	distal end 14) has a	
	laryngoscope blade 21,	smooth surface	
	engages the patient's	(smooth tip 18) and is	
	epiglottis to expose the	inserted into the	
	patient's larynx (p. 1,	patient's mouth and	
	11. 57-64).	through a patient's	L

Claim 26	GB 2086732	US 5,800,344	US 5,827,178
		pharynx, larynx, and	
	GB 2086732, Fig. 8	trachea to open the	
	shows that the	patient's airway	
	elongate lifter portion	passage (col. 1, ll. 10-	
	(the straight portion	21, 50-52; col. 2, 11.	
	28) has a smooth	49-51). Accordingly,	
	surface. Further, since	the elongate lifter	
	the elongate lifter	portion (the region	
	portion 28 of the	between the distal end	
	laryngoscope blade 21	14 and a point located	
	is inserted between the	proximally of the	
	tongue and tonsil (p. 3,	distal end 14) opens	
	11. 86-88), it needs to	the airway by	
	have a smooth surface	engaging the epiglottis	
	to avoid injuring the sensitive tissue	of the patient.	
	comprising the patient's airway.		
	Accordingly, the		
	smooth portion of the		
	elongate lifter portion		
	(the straight portion 28		
	shown in Fig. 8) is at		
	least inherently		
	disclosed.		
<b>}</b>	Note that GB		
	2086732, Figs. 9 and		
	17 show the tip 22 of		
	the elongate lifter		
	portion (the straight		
	portion 28) partially		
	obstructed by the		
	patient's epiglottis,		
	denoted with diagonal		
	marking in the excerpt		
	shown in the analysis		
	of claim 1, above.	(and holow with	(asa balaw with
said elongate lifter	GB 2086732, p. 2, 11.	(see below with respect to 35 U.S.C. §	(see below with
portion being at least as long as	27-31 and Fig. 8 disclose that the	103(a))	respect to 35 U.S.C. § 103(a))
said elongate base	laryngoscope blade 21	103(a))	103(a))
portion and	has an elongate lifter		
extending from	portion (the straight		
said elongate base	portion (the straight portion 28) that		
Said Clongate Dase	portion 20) mat		

Claim 26	GB 2086732	US 5,800,344	US 5,827,178
portion by at least	extends from the	<del></del>	
a 5 degree angle.	elongate base portion		
	(the straight portion		
	27). The elongate base		
	portion (the straight		
	portion 27) is		
	comprised of a		
	forming component		
	24A, which has a		
	length of between 40		
	mm and 120 mm, and		
	preferably between 60		
	mm and 85 mm (p. 3,		
	ll. 10-16; p. 3, 1. 129 –		
	p. 4, 1. 2). The		
	elongate lifter portion		
	(the straight portion		
	28) is comprised of a		
	forming component		
	24B, which has a		
	length of between 50		
	mm and 90 mm, and		
	preferably between 60		
	mm and 75 mm (p. 3,		
	ll. 10-16; p. 4, ll. 3-5).		
:	Accordingly, at 60		
	mm, for example, the		
:	elongate lifter portion		
	(the straight portion		
	28) is as least as long		
	as the elongate base		
	portion (the straight		
	portion 27). The		
	straight portions 27		
	and 28 meet at an		
	included angle of		
	between 120° and 150°		
	(p. 2, 11. 27-33), which		
	corresponds to an		
	exterior angle (i.e., a		
	supplementary angle,		
	which is the angle		
	referred to in the claim		
	and described in the		
	'447 patent at col. 7, ll.		
	1 74/ patent at con. /, II.		L

Claim 26	GB 2086732	US 5,800,344	US 5,827,178
	60-62 and in Figs. 7		
	and 8) of between 30°		
	and 60°.		

(b) Claim 26 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion at least as long as the elongate base portion and extending from the elongate base portion by at least a 5 degree angle would improve the shape of the laryngoscope and facilitate the intubation process. (The remaining features of claim 26 are disclosed in Wood, Sr. et al. and Berall as shown in the preceding claim chart.) Accordingly, providing the length and angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 (p. 2, ll. 27-33; p. 3, ll. 10-16; p. 4, ll. 3-6) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 27. Claim 27

#### Claim 27 reads:

- 27. The intubation instrument of claim 26, further including a viewer positioned substantially near where said elongate base portion meets said elongate lifter portion of said elongate arm, said viewer directed toward the distal end of said elongate lifter portion.
- (a) Claim 27 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732, p.3, ll. 35-53; Fig. 9, discloses a viewer (prism 10) positioned substantially near the area where the elongate base portion (the straight portion 27) meets the elongate lifter portion (the straight portion 28). The prism is directed toward the distal end of the straight portion 28 to provide a view of the patient's anatomy.

(b) Claim 27 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 for the same reasons as those described above in connection with the obviousness of claim 26. (The remaining features of claim 27 are disclosed in Wood, Sr. et al. (col. 1, 1l. 60-62; col. 3, 1l. 22-61; Fig. 3) and Berall (col. 1, 1l. 58-60; col. 5, 1l. 19-20, 28-31, 34-36; Fig. 4).)

## 28. Claim 28

Claim 28 reads:

28. The intubation instrument of claim 27, wherein said viewer is a Complementary Metal Oxide Semiconductor camera.

- (a) Claim 28 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall because providing a CMOS camera to acquire an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway.

  Accordingly, providing a CMOS camera in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, 1l. 53-57) or Berall (col. 5, 1l. 46-48) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.
- (b) Claim 28 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 for the same reasons as those described above in connection with the obviousness of claim 27. (The remaining features of claim 28 are disclosed in Wood, Sr. et al. (col. 3, 11. 53-57) and Berall (col. 5, 11. 46-48).)

## 29. Claim 29

Claim 29 reads:

29. The intubation instrument of claim 28, wherein said viewer is a Charged Coupled Device camera.<sup>4</sup>

(a) Claim 29 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall because providing a CCD to acquire an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway. Accordingly, providing a CCD in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 53-57) or Berall (col. 5, ll. 46-48) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(b) Claim 29 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 for the same reasons as those described above in connection with the obviousness of claim 27. (The remaining features of claim 29 are disclosed in Wood, Sr. et al. (col. 3, 11. 53-57) and Berall (col. 5, 11. 46-48).)

## 30. Claim 30

Claim 30 reads:

30. The intubation instrument of claim 26, further including a light operably secured to said lifter portion.

(a) Claim 30 is fully anticipated under 35 U.S.C. § 102 by GB 2086732 because GB 2086732, p. 3, ll. 10-16; Figs. 7, 8, discloses a light (lamp 26) operably secured to the elongate lifter portion (the straight portion 28).

<sup>&</sup>lt;sup>4</sup> In view of the dependencies of claims 4 and 5, it appears that claim 29 improperly depends from claim 28.

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(b) Claim 30 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 for the same reasons as those described above in connection with the obviousness of claim 26. (The remaining features of claim 30 are disclosed in Wood, Sr. et al. (col. 3, 1l. 51-53; Fig. 3) and Berall (col. 6, 1. 16; col. 7, 1l. 17-18).)

# 31. Claim 31<sup>5</sup>

(a) Claim 31 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall as described in the following claim chart:

Claim 31	GB 2086732	US 5,800,344	US 5,827,178
31. An intubation	GB 2086732, p. 1, 11.	US 5,800,344, col. 1,	US 5,827,178, col. 1,
instrument, a	5-27, discloses a	ll. 1-21 discloses a	ll. 5-10; col. 4, ll. 8-
portion of which is	laryngoscope that is	laryngoscope that is	12 discloses a
for insertion into a patient through the patient's mouth, comprising:	used in intubation procedures. A portion of the laryngoscope is inserted through the patient's mouth as shown in Figs. 9 and	used in intubation procedures. A portion of the laryngoscope is inserted through the patient's mouth.	laryngoscope that is used in intubation procedures. A portion of the laryngoscope is inserted through the patient's mouth.
	17.		patient's mouth.
a body having a handle attached thereto;	GB 2086732, Fig. 15 discloses a laryngoscope body. A handle 43 is attached to the body and is shown more clearly in Fig. 10. The handle 43 may be integral or releasably attached to the remainder of the laryngoscope body (p. 3, 1l. 100-104).	US 5,800,344, col. 2, ll. 47-54 and Figs. 1 and 4 discloses a laryngoscope body and a handle 20 attached to the body.	US 5,827,178, col. 5, ll. 13-15; Fig. 2 discloses a laryngoscope body and a handle 21 attached to the body.
an elongate arm	GB 2086732, Figs. 7,	US 5,800,344, col. 2,	US 5,827,178, col. 1,
having an elongate	8, and 17 disclose an	11. 47-54 and Figs. 1	11. 5-10; col. 4, 11. 8-
base portion	elongate arm (the	and 4 discloses an	12; col. 5, 11. 5-13,
attached to the body	laryngoscope blade	elongate arm (the	21-24; Fig. 4

<sup>&</sup>lt;sup>5</sup> The feature of the elongate lifter portion being approximately as long as the elongate base portion is not disclosed in the earlier applications 09/060,891; 60/074,355; and 60/067,205 all to which the '447 patent improperly claims priority.

Claim 31	GB 2086732	US 5,800,344	US 5,827,178
and an elongate	21). The	body 12, known	discloses an elongate
li[f]ter portion	laryngoscope blade	conventionally as a	arm (the
having a smooth	21 has an elongate	"blade"). The blade	laryngoscope blade
surface for	base portion (the	has an elongate base	17). The
engaging the	straight portion 27)	portion (the region	laryngoscope blade
patient's epiglottis,	and an elongate lifter	between the proximal	17 has an elongate
said elongate lifter	portion (the straight	end 16 and a point	base portion (the
portion having a	portion 28). The	located distally of the	proximal end 24) that
distal-end for	elongate base portion	proximal end 16) that	is attached to the
insertion distal-end	(the straight portion	is attached to the	remainder of the
first through a	27) is attached to the	remainder of the	laryngoscope body.
patient's mouth and	remainder of the	laryngoscope body	The laryngoscope
being	laryngoscope body	(col. 1, ll. 52-53; col.	blade 17 has an
approximately as	using, for example,	2, 11. 64-67; Fig. 2).	elongate lifter portion
long as said	the notch 46 and clip	The blade has an	(the region located
elongate base	50 at the lower	elongate lifter portion	proximally of the tip
portion and	depending portion 49	(the region between	28 of the distal end
extending from said	of the lower part 47	the distal end 14 and	25) with a distal end
elongate base	(p. 3, ll. 14-16; p. 3,	a point located	(25) that is inserted,
portion by at least a	11. 94-106; Figs. 7, 8,	proximally of the	distal-end first, into
5 degree angle;	and 10). The	distal end 14) that	the patient's mouth
	elongate lifter portion	extends from the	during intubation,
	(the straight portion	elongate base portion	which involves
	28) has a distal end	toward an opposite	engaging
	(tip 22) that is	end of the elongate	("manipulation of")
	inserted distal-end	base portion (col. 2,	the patient's
	first through a	11. 47-54 and Fig. 1).	epiglottis.
	patient's mouth and,	The elongate lifter	(0 1 1 21
	as part of the	portion (the region	(See below with
	laryngoscope blade	between the distal	respect to 35 U.S.C. §
	21, engages the	end 14 and a point	103(a))
	patient's epiglottis to expose the patient's	located proximally of the distal end 14) has	
	larynx (p. 1, ll. 57-	a smooth surface	
	64). The elongate	(smooth tip 18) and is	
	base portion (the	inserted into the	
	straight portion 27) is	patient's mouth and	
	comprised of a	through a patient's	
	forming component	pharynx, larynx, and	
	24A, which has a	trachea to open the	
	length of between 40	patient's airway	
	mm and 120 mm, and	passage (col. 1, ll. 10-	
	preferably between	21, 50-52; col. 2, 11.	
	60 mm and 85 mm	49-51). Accordingly,	
	(p. 3, ll. 10-16; p. 3, l.	the elongate lifter	

elongate lifter portion (the straight portion 28) is comprised of a forming component 24B, which has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, res	ortion (the region tween the distal d 14 and a point cated proximally of e distal end 14) tens the airway by gaging the iglottis of the tient.  ee below with spect to 35 U.S.C. § 13(a))	
(the straight portion 28) is comprised of a forming component 24B, which has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	d 14 and a point cated proximally of e distal end 14) eens the airway by gaging the iglottis of the tient.  ee below with spect to 35 U.S.C. §	
28) is comprised of a forming component 24B, which has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	cated proximally of e distal end 14) ens the airway by gaging the iglottis of the tient.  ee below with spect to 35 U.S.C. §	
forming component 24B, which has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	e distal end 14) eens the airway by gaging the iglottis of the tient. ee below with spect to 35 U.S.C. §	
24B, which has a length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, 1l. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	gaging the iglottis of the tient.  ee below with spect to 35 U.S.C. §	
length of between 50 mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, 1l. 10-16; p. 4, 1l. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	gaging the iglottis of the tient.  ee below with spect to 35 U.S.C. §	
mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, 1l. 10-16; p. 4, 1l. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	iglottis of the tient.  ee below with spect to 35 U.S.C. §	
mm and 90 mm, and preferably between 60 mm and 75 mm (p. 3, 1l. 10-16; p. 4, 1l. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	iglottis of the tient.  ee below with spect to 35 U.S.C. §	
preferably between 60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	ee below with spect to 35 U.S.C. §	
60 mm and 75 mm (p. 3, ll. 10-16; p. 4, ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	ee below with spect to 35 U.S.C. §	
ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and	spect to 35 U.S.C. §	
ll. 3-5). Accordingly, the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
the elongate lifter portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
portion (the straight portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
portion 28) is approximately as long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
long as the elongate base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
base portion (the straight portion 27). Indeed, at 60 mm, for example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
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example, both portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
portions have the same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
same length. The straight portions 27 and 28 meet at an included angle of between 120° and		
straight portions 27 and 28 meet at an included angle of between 120° and		
and 28 meet at an included angle of between 120° and		
included angle of between 120° and		
between 120° and		
1		
150° (n 2 11 27-32)		
130 (p. 2, 11. 27-33),		
which corresponds to		
an exterior angle (i.e.,		
a supplementary		
angle, which is the		
angle referred to in		
the claim and		
described in the '447		
patent at col. 7, 11. 60-		
62 and in Figs. 7 and		
8) of between 30° and		
60°.		
GB 2086732, Fig. 8		
shows that the		
elongate lifter portion		
(the straight portion		
28) has a smooth		

Claim 31	GB 2086732	US 5,800,344	US 5,827,178
	surface. Further,		
	since the elongate		
	lifter portion 28 of		
	the laryngoscope		
	blade 21 is inserted		
	between the tongue		
	and tonsil (p. 3, ll.		
	86-88), it needs to		
	have a smooth		
	surface to avoid		
	injuring the sensitive		
	tissue comprising the		
	patient's airway.		
	Accordingly, the		
	smooth portion of the		
	elongate lifter portion		
	(the straight portion		
	28 shown in Fig. 8) is		
	at least inherently		
	disclosed.		
	Note that GB		
	2086732, Figs. 9 and		
	17 show the tip 22 of		
	the elongate lifter		
	portion (the straight		
	portion 28) partially		
	obstructed by the		
	patient's epiglottis,		
	denoted with		
	diagonal marking in		
	the excerpt shown in		
	the analysis of claim		
	1, above.		
a complementary	(See below with	US 5,800,344, col. 1,	US 5,827,178, col. 1,
metal oxide	respect to 35 U.S.C. §	11. 60-62; col. 3, 11.	11. 58-60; col. 5, 11.
semiconductor	103(a))	22-37; Fig. 3	19-20, 28-31; Fig. 4
camera positioned		discloses a viewer	discloses a viewer
substantially where		(image sensor 42)	(camera 26) located
the elongate base		positioned	substantially near the
portion meets said		substantially near the	area where the
elongate lifter		area where elongate	elongate base portion
portion of said		base portion (the	(the proximal end 24)
elongate arm, said		region between the	meets the elongate
complementary		proximal end 16 and	lifter portion (the

Claim 31	GB 2086732	US 5,800,344	US 5,827,178
metal oxide semiconductor camera directed toward the distal- end of said elongate lifter portion; and,	GD 2000/32	a point located distally of the proximal end 16) meets the elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14). The image sensor 42 is directed toward the distal end 14 to provide a view of the patient's anatomy. The image sensor 42 may be a CMOS device (col. 3, 11. 53-	region located proximally of the tip 28 of the distal end 25). The camera 26 is directed toward the distal end 25 to provide a view of the patient's anatomy. The camera 26 may be a CMOS device ("computer chip camera") (col. 5, ll. 46-48).
a light operably secured to said elongate lifter portion.	GB 2086732, p. 3, ll. 10-16 and Figs. 7 and 8 discloses a light (lamp 26) operably secured to the elongate lifter portion (the straight portion 28).	US 5,800,344, col. 3, ll. 51-53; Fig. 3 discloses a light (fiber optic bundles 46 or conventional light source ("lamp")) operably secured to the elongate lifter portion (the region between the distal end 14 and a point located proximally of the distal end 14).	US 5,827,178, col. 6, l. 16; col. 7, ll. 17-18 discloses means for illuminating the visual field, e.g., the trachea opening. Illuminating this area would require a light operably secured to that part of the laryngoscope body that is close to the trachea opening when the laryngoscope is in use, i.e., operably secured to the elongate lifter portion (the region located proximally of the tip 28 of the distal end 25).

Claim 31 is obvious under 35 U.S.C. § 103(a) over GB 2086732 in view of Wood, Sr. et al. or Berall because providing a CMOS camera

substantially where the elongate base and lifter portions meet and directed toward the distal end to acquire an image of the patient's airway would facilitate the intubation process by giving the medical professional an improved view of the airway. Accordingly, providing a CMOS camera in the laryngoscope of GB 2086732 as shown in Wood, Sr. et al. (col. 3, ll. 53-57) or Berall (col. 5, ll. 46-48) would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

(b) Claim 31 is obvious under 35 U.S.C. § 103(a) over Wood, Sr. et al. or Berall in view of GB 2086732 because providing an elongate lifter portion approximately as long as the elongate base portion and extending from the elongate base portion by at least a 5 degree angle would improve the shape of the laryngoscope and facilitate the intubation process. (The remaining features of claim 31 are disclosed in Wood, Sr. et al. and Berall as shown in the preceding claim chart.) Accordingly, providing the length and angle in the laryngoscopes of Wood, Sr. et al. or Berall as shown in GB 2086732 would have been obvious to a person having ordinary skill in the art of laryngoscope design at the time the alleged invention of the '447 patent was made. In addition, the feature of providing a smooth surface is at least inherently disclosed in GB 2086732 or Berall or obvious in further view of Wood, Sr. et al. as described above in connection with claim 1.

## 32. Claim 32

Claim 32 reads:

32. The intubation instrument of claim 31, wherein said light is a Light Emitting Diode.